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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,604	09/10/2003	Winston Breedon JR.	35256	5375

116 7590 04/27/2005

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EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,604

Applicant(s)

BREEDEN ET AL

Examiner

Amy J. Sterling

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 14-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is the **Final Office Action** for application number 10/659,604 Pipe Surge Protector and Hanger Support, filed on 9/10/03. Claims 14-33 are pending. This **Final Office Action** is in response to applicant's reply dated 1/24/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

Claim Objections

Claims 23, 31 and 33 are objected to because of the following informalities:

The claims recite the term "inseperable", which is purported to be an erroneous spelling of the term "inseparable".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23, 31 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recited that the arms, the connector and the portion joining the ends of the arms are "inseperable". The disclosure has not indicated a meaning of this term.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23, 31 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recited that the arms, the connector and the portion joining the ends of the arms are "inseperable" and it is unclear as to how the elements recited can be inseparable when the arms and the connector are taught to be welded together, the welding clearly indicating that the elements are capable of being separated.

Claim Rejections - 35 USC § 102

Claims 14, 16, 17, 22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6672545 to Persing.

Persing discloses a pipe hanger (70) vertically supported by a collar (63) and is shaped to support a pipe, having an upper end including a hole sized to extend about connector (60), the device also including a support member (70) and a plurality of arms (30) extending from the connector (60) the arms being formed from a single bent metal piece (See Col. 2, line 54 for material). Persing also discloses that the device which

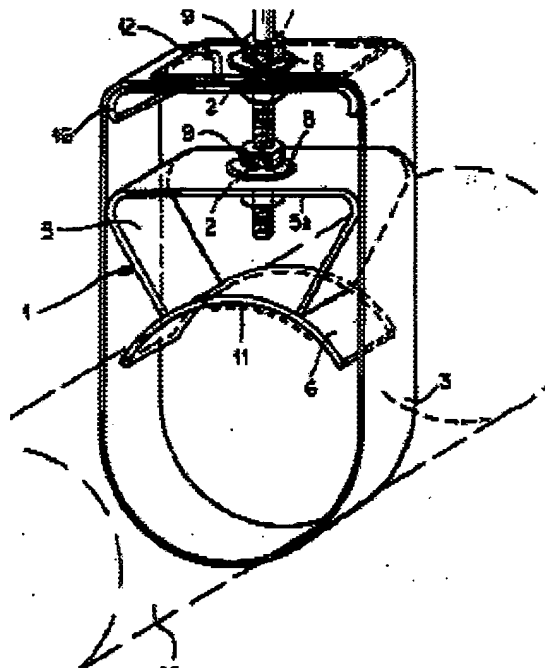
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has a circular collar (63) integrally formed and on the lower end of the connector (60), an upper portion of the collar for supporting engagement with the pipe hanger and a lower portion of the collar fixedly connected to upper attachment ends of the arms (30), the arms (30) being fixedly connected to the connector. The arms are fixedly connected to both the arms and the collar when arms (30) spring back into pipe support members (53) and are biased against the support members by the spring force of the arms and by friction. Persing also teaches that the arms (30) are supported by the connector (60), the arms being spaced to permit location of the support member therebetween when the device is adjusted so that the support member (70) projects beyond the connector (60) and a portion (20) joining ends of the arms distal from the connector and supported by the arms. Persing discloses a gripping feature (61) being disposed on an outer surface of the connector.

Claims 14, 15, 21, 24, 25 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4413799 to Gabriel.

Gabriel discloses a pipe hanger device having a support member (15) and a pipe hanger (3) vertically supported by a collar (8) and is shaped to support a pipe, having an upper end including a hole sized to extend about connector (9), a plurality of arms (5) extending from the connector (9), the arms (5) being fixedly connected to the connector (9) and supported by the connector, the arms being spaced to permit location of the support member therebetween when the device is adjusted so that the support member (15) projects beyond the connector (9) and a portion (11) joining ends of the arms (5)

distal from the connector and supported by the arms. Gabriel includes a threaded portion and that the connector (9), the arms (5) and the portion (11) joining the ends of the arms (5) forming a smooth arcuate contacting surface disposed at an interface between the contacting surface and the arm, the portion being rotatable as a unit relative to the pipe hanger (3) during rotational threaded-engagement movement of the connector on the threaded portion of the support member.

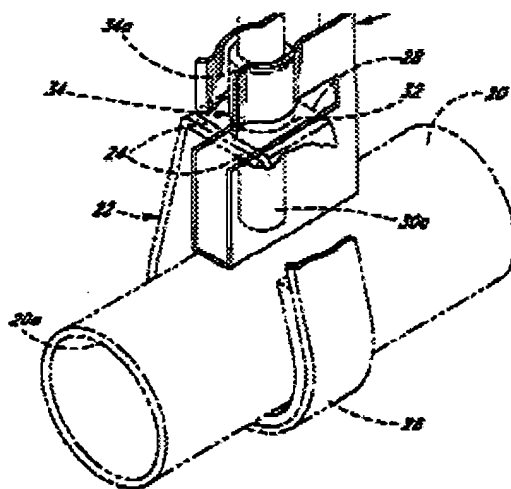


Claims 14, 18, 19, 23, 24, 26-28 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5344108 to Heath.

Heath discloses a device having support member (30), and a pipe hanger (26) supported by a collar (34a), and is shaped to support a pipe, having an upper end including an aperture in each of a first and second end sized to extend about connector (34a) and the support member (30), wherein the position of the pipe hanger relative to

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the device is limited in one direction by contact between a collar disposed at an end of the connector and the upper end of the pipe hanger, a plurality of arms (36) extending from the connector (34a), the arms (36) being fixedly connected to the connector (34a) and supported by the connector, the arms (36) being spaced to permit location of the support member therebetween when the device is adjusted so that the support member (30) projects beyond the connector (9) and a portion joining ends of the arms (36) distal from the connector and supported by the arms, the arms and the portion which are spaced from the pipe hanger to be non-contacting with the pipe hanger. Heath also discloses wherein the portion joining the distal ends of the arms is formed from a single bent piece of metal (See Col. 4, line 60-65), a majority of each arm extends along a first direction and upper end of each arm being turned perpendicular to the first direction and lying against a lower portion of the connector, the upper ends of the arms being turned outwardly from each other (See Fig. 1), wherein the connector, arms and portion are inseparable.



Claim Rejections - 35 USC § 103

Claims 20 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4413799 to Gabriel as applied to claim 14 above.

Gabriel discloses the basis inventive concept as shown above with the exception that it does not teach wherein the connector is welded to the arms.

Gabriel teaches that the arms are fixedly attached to the connector (9) by a frictional force. It does not specifically teach that this connection may be welded. Welding is a well known connection method in the art and it would be obvious to one of ordinary skill in the art to have connected any metallic elements by this well-known procedure in order to have a more secure connection than the one provided by friction. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have welded the arms and the connector together in order to have the elements securely fastened together.

Response to Arguments

The applicant has argued that the Persing reference does not teach that the arms are fixedly connected to the connector. This is unpersuasive in that the arms are frictionally attached to the connector by a spring biasing of the arms, which meets the limitation of being fixed in place.

The other arguments are moot due to the new grounds of rejection.

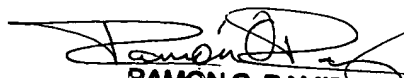
Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.


AJS

Amy J. Sterling
4/22/05


RAMON O. RAMIREZ
PRIMARY EXAMINER